

Senate Amendment 5322

PAG LIN

1 1 Amend Senate File 2392, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 5, line 35, by striking the words <a
1 4 plan> and inserting the following: <an act>.
1 5 #2. Page 9, by striking lines 30 through 34.
1 6 #3. Page 11, line 31, by striking the words <AND
1 7 BOND>.
1 8 #4. Page 14, by striking lines 1 through 32.
1 9 #5. Page 15, line 2, by striking the figure
1 10 <508E.14> and inserting the following: <508E.15>.
1 11 #6. Page 16, line 14, by inserting after the word
1 12 <contract> the following: <form>.
1 13 #7. Page 17, line 22, by striking the figures and
1 14 words: <508E.13, and 508.14> and inserting the
1 15 following: <508E.14, and 508E.15>.
1 16 #8. Page 18, line 28, by striking the figure
1 17 <508E.14> and inserting the following: <508E.15>.
1 18 #9. Page 28, line 29, by striking the word <sixty>
1 19 and inserting the following: <thirty>.
1 20 #10. Page 28, line 31, by striking the word
1 21 <thirty> and inserting the following: <fifteen>.
1 22 #11. Page 30, by striking lines 10 through 12, and
1 23 inserting the following: <contracts shall be made
1 24 only by a duly licensed viatical settlement provider
1 25 or by the authorized>.
1 26 #12. Page 30, by striking lines 26 through 28.
1 27 #13. Page 35, by striking lines 26 and 27, and
1 28 inserting the following:
1 29 <A viatical settlement broker, or viatical>.
1 30 #14. Page 35, line 29, by striking the words
1 31 <plan, transaction,> and inserting the following:
1 32 <transaction>.
1 33 #15. Page 36, line 10, by striking the words
1 34 <broker, and> and inserting the following: <broker,
1 35 and, if the policy was issued less than two years from
1 36 the date of application for a viatical settlement
1 37 contract,>.
1 38 #16. Page 37, line 12, by striking the figure
1 39 <508E.16> and inserting the following: <508E.17>.
1 40 #17. Page 38, line 2, by striking the word <sixty>
1 41 and inserting the following: <thirty>.
1 42 #18. Page 38, line 4, by striking the word
1 43 <thirty> and inserting the following: <fifteen>.
1 44 #19. By striking page 40, line 12, through page
1 45 42, line 30, and inserting the following:
1 46 <Sec. _____. NEW SECTION. 508E.11 PROHIBITED
1 47 PRACTICES.
1 48 1. Except as provided in section 508E.12, it is a
1 49 violation of this chapter for any person to enter into
1 50 a viatical settlement contract at any time prior to
2 1 the application or issuance of a policy which is the
2 2 subject of a viatical settlement contract or within a
2 3 five-year period commencing with the date of issuance
2 4 of the insurance policy or certificate.
2 5 2. An insurer shall not, as a condition of
2 6 responding to a request for verification of coverage
2 7 or effecting the transfer of a policy pursuant to a
2 8 viatical settlement contract, require that the viator,
2 9 insured, viatical settlement provider, or viatical
2 10 settlement broker sign any form, disclosure, consent,
2 11 or waiver form that has not been expressly approved by
2 12 the commissioner for use in connection with viatical
2 13 settlement contracts in this state.
2 14 3. Upon receipt of a properly completed request
2 15 for change of ownership or beneficiary of a policy,
2 16 the insurer shall respond in writing within twenty
2 17 days, with written acknowledgment confirming that the
2 18 change has been effected or specifying the reasons why
2 19 the requested change cannot be processed. The insurer
2 20 shall not unreasonably delay effecting a change of
2 21 ownership or beneficiary and shall not otherwise seek
2 22 to interfere with any viatical settlement contract
2 23 lawfully entered into in this state.
2 24 Sec. 2. NEW SECTION. 508E.12 PERMITTED

2 25 PRACTICES.

2 26 1. Notwithstanding section 508E.11, at any time

2 27 subsequent to the issuance of the policy, a person may

2 28 enter into a viatical settlement contract if the

2 29 viator certifies to the viatical settlement provider

2 30 that one or more of the following conditions have been

2 31 met within the five-year period:

2 32 a. The policy was issued upon the viator's

2 33 exercise of conversion rights arising out of a group

2 34 or individual policy, provided the total of the time

2 35 covered under the conversion policy plus the time

2 36 covered under the prior policy is at least sixty

2 37 months. The time covered under a group policy shall

2 38 be calculated without regard to any change in

2 39 insurance carriers, provided the coverage has been

2 40 continuous and under the same group sponsorship.

2 41 b. The viator submits an affidavit to the viatical

2 42 settlement provider that one or more of the following

2 43 conditions exists:

2 44 (1) The viator or insured is terminally or

2 45 chronically ill.

2 46 (2) The viator's spouse or child dies.

2 47 (3) The viator divorces the viator's spouse.

2 48 (4) The viator retires from full-time employment.

2 49 (5) The viator becomes physically or mentally

3 1 disabled and a physician determines that the

3 2 disability prevents the viator from maintaining

3 3 full-time employment.

3 4 (6) The viator has filed for bankruptcy or sought

3 5 reorganization in a court of competent jurisdiction,

3 6 or a court of competent jurisdiction has appointed a

3 7 receiver, trustee, or liquidator to all or a

3 8 substantial part of the viator's assets.

3 9 (7) Other circumstances as established as eligible

3 10 exemptions by the commissioner by rule, including but

3 11 not limited to substantial adverse financial

3 12 circumstances or other factors substantially affecting

3 13 the viator.

3 14 2. Notwithstanding section 508E.11, a person may

3 15 enter into a viatical settlement contract if at all

3 16 times prior to the date that is two years after policy

3 17 issuance, all of the following conditions are met with

3 18 respect to the policy:

3 19 a. Policy premiums have been funded exclusively

3 20 with any of the following:

3 21 (1) Unencumbered assets, including an interest in

3 22 the life insurance policy being financed only to the

3 23 extent of its net cash surrender value, provided by a

3 24 person described in section 508E.2, subsection 15,

3 25 paragraph "d".

3 26 (2) Fully recourse liability incurred by the

3 27 insured or a person described in section 508E.2,

3 28 subsection 15, paragraph "d".

3 29 b. There is no agreement or understanding with any

3 30 other person to guarantee any such liability or to

3 31 purchase, or stand ready to purchase, the policy,

3 32 including through an assumption or forgiveness of the

3 33 loan.

3 34 c. Neither the insured nor the policy has been

3 35 evaluated for settlement.

3 36 3. Copies of the affidavits described in this

3 37 section and documents required by section 508E.10,

3 38 subsection 1, shall be submitted to the insurer when

3 39 the viatical settlement provider or viatical

3 40 settlement broker submits a request to the insurer for

3 41 verification of coverage. The copies shall be

3 42 accompanied by a letter of attestation from the

3 43 viatical settlement provider that the copies are true

3 44 and correct copies of the documents received by the

3 45 viatical settlement provider.

3 46 4. If the viatical settlement provider submits to

3 47 the insurer a copy of the owner's or insured's or

3 48 insurer's affidavit described in this section when the

3 49 provider submits a request to the insurer to effect

3 50 the transfer of the policy or certificate to the

4 1 viatical settlement provider, the copy shall be deemed

4 2 to conclusively establish that the viatical settlement

4 3 contract satisfies the requirement of this section and

4 4 the insurer shall timely respond to the request.>

4 5 #20. Page 42, line 31, by striking the figure

4 5 <508E.12> and inserting the following: <508E.13>.

4 6 [#21](#). Page 43, line 4, by inserting after the word
4 7 <broker> the following: <unless such relationship is
4 8 disclosed to the viator>.
4 9 [#22](#). Page 43, line 14, by inserting after the word
4 10 <contract> the following: <unless such relationship
4 11 is disclosed to the viator>.
4 12 [#23](#). Page 44, line 2, by inserting before the word
4 13 <purpose> the following: <sole>.
4 14 [#24](#). Page 44, line 3, by striking the word <an>
4 15 and inserting the following: <a primary>.
4 16 [#25](#). Page 44, by striking lines 4 through 18 and
4 17 inserting the following:
4 18 <6. A person providing premium financing shall not
4 19 receive any proceeds, fees, or other consideration
4 20 from the policy or owner of the policy that are in
4 21 addition to the amounts required to pay principal,
4 22 interest, and any costs or expenses incurred by the
4 23 lender or borrower in connection with the premium
4 24 finance agreement, except for the event of a default,
4 25 unless either the default on such loan or transfer of
4 26 the policy occurs pursuant to an agreement or
4 27 understanding with any other person for the purpose of
4 28 evading regulation under this chapter. Any payments,
4 29 charges, fees, or other amounts received by a person
4 30 providing premium financing in violation of this
4 31 subsection shall be>.
4 32 [#26](#). Page 45, line 2, by striking the figure <6.>
4 33 and inserting the following: <9.>
4 34 [#27](#). Page 45, line 9, by striking the figure
4 35 <508E.13> and inserting the following: <508E.14>.
4 36 [#28](#). Page 50, line 26, by striking the figure
4 37 <508E.14> and inserting the following: <508E.15>.
4 38 [#29](#). Page 55, line 13, by striking the figure
4 39 <508E.15> and inserting the following: <508E.16>.
4 40 [#30](#). Page 56, line 12, by striking the figure
4 41 <508E.16> and inserting the following: <508E.17>.
4 42 [#31](#). Page 56, line 18, by striking the figure
4 43 <508E.17> and inserting the following: <508E.18>.
4 44 [#32](#). Page 57, line 3, by striking the figure
4 45 <508E.18> and inserting the following: <508E.19>.
4 46 [#33](#). By renumbering, relettering, or redesignating
4 47 and correcting internal references as necessary.
4 48 SF 2392.H
4 49 jg/25